

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
CITY OF NASHUA, NEW HAMPSHIRE,  
  
Defendant.

Plaintiff, the United States of America, through its undersigned attorneys, and at the request of the Administrator of the United States Environmental Protection Agency (EPA), alleges as follows:

1. This is a civil action brought against the City of Nashua, New Hampshire, pursuant to Section 309(b) of the Clean Water Act (CWA), 33 U.S.C. § 1319(b).

2. The claims arise from the City's failure to comply with its National Pollutant Discharge Elimination System Permit (NPDES) issued in accordance with Section 402 of the Clean Water Act, 33 U.S.C. § 1342.

3. This Court has jurisdiction over the subject matter of this action pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and pursuant to 28 U.S.C. §§ 1331, 1345, and 1355.

4. Venue is proper in this district pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b), and 28 U.S.C. § 1391(b).

5. Notice of the commencement of this action has been given to the State of New Hampshire pursuant to Section 309(b) of the CWA, 33 U.S.C. § 1319(b).

**DEFENDANT**

6. The City of Nashua is a municipality incorporated under the laws of the State of New Hampshire and a person within the meaning of Section 502(5) of the Act, 33 U.S.C. § 1362(5).

**Count 1**  
**NPDES Permit Violations**

7. The United States realleges and incorporates by reference the allegations of paragraphs 1 through 6 above as though fully set forth herein.

8. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of pollutants into navigable waters of the United States except in compliance with the terms and conditions of a NPDES permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. Section 402 of the Act, 33 U.S.C. § 1342, provides that the Administrator of EPA may issue permits under the NPDES program for the discharge of any pollutant into the navigable waters of the United States upon such specific terms and conditions as the Administrator may prescribe.

9. Pursuant to Section 402 of the Act, 33 U.S.C. § 1342, EPA issued NPDES Permit No. NH0100170 to the City on May 31, 2000 (the 2000 Permit), superseding a permit issued on March 27, 1991 and modified on February 10, 1992 (the 1991 Permit).

10. At all times material to this Complaint, the City's NPDES permit has provided that discharges from combined sewers must not cause water quality standards violations.

11. During the past five years, the City's combined sewer outfalls have discharged waste water to the Merrimack River and/or Nashua River on approximately 150 occasions.

12. The combined sewage the City discharged to the Merrimack River and Nashua River contained concentrations of E. coli bacteria that caused the Merrimack and Nashua Rivers to contain E. coli bacteria concentrations in excess of levels safe for recreational use, thereby causing water quality standards violations in the Merrimack River and in the Nashua River.

13. The City's combined sewer outfalls are point sources within the meaning of Section 502(14) of the Act, 33 U.S.C. § 1362(14).

14. Bacteria is a pollutant within the meaning of Section 502(6) of the Act, 33 U.S.C. § 1362(6).

15. The Merrimack River and the Nashua River are navigable waters within the meaning of Section 502(7) of the Act, 33 U.S.C. § 1362(7).

16. By discharging waste water that causes water quality standards violations in the Merrimack River and Nashua River in violation of its NPDES permit, the City violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

**RELIEF SOUGHT**

Wherefore, Plaintiff, the United States of America, respectfully requests that the Court grant the following relief:

A. Order the City of Nashua to eliminate discharges from its collection system that cause violations of water quality standards in the Merrimack River and Nashua River;

B. Order the City of Nashua to eliminate excessive inflow and infiltration from its collection system;

C. Order the City of Nashua to operate its waste water treatment facility to maximize pollutant removal; and

D. Grant such other relief as the Court deems just and proper.

Respectfully submitted,

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Dated: \_\_\_\_\_